

PATENT

D. REMARKS

Claims 1-20 are currently present in the Application and stand rejected. Claims 1, 8, and 14 are independent claims. No claims have been amended, added, or cancelled in this Response.

1. Amendment of Specification

The Office Action objected to Applicants' "Related Application" section as not including the serial number of the co-pending patent application. Applicants have amended the specification and have provided both the serial number as well as the U.S. Patent Publ. number of the co-pending application. In light of this amendment, Applicants respectfully request that the objection be withdrawn.

2. Double Patenting Rejection

The Office Action provisionally rejected claims 1-20 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1-20 of co-pending application number 09/996,131. Applicants note the provisional nature of this rejection. Accordingly, upon allowance of any of the claims of the co-pending application, Applicants hereby agree to file, through their appointed representative, a proper terminal disclaimer pursuant to 37 C.F.R. 1.321.

Prior Art Rejections

The Office Action rejects claims 1-6, 8-12, and 14-19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2002/0042751 Al to Sarno (hereinafter "Sarno"). The Office Action also rejects claims 7, 13, and 20 under 35 U.S.C. § 103(a) as being obvious, and therefore unpatentable,

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over Sarno in view of U.S. Patent No. 6,662,357 to Bowman-Amuah (hereinafter Bowman-Amuah). The rejections are respectfully traversed.

1. **Declaration under 37 C.F.R. § 1.131 removing Sarno as a prior art reference**

Applicants conceived of the claimed invention prior to the filing date of Sarno, and Applicants showed diligence from Applicants' conception date to the filing date of Applicants' application. A declaration, pursuant to 37 C.F.R. § 1.131, has been duly executed by Applicant Douglas A. Wood and is included with this Response. Mr. Wood declares that Applicants' claimed invention was conceived of prior to July 6, 2000 (the date Sarno filed the provisional application from which the Sarno reference derives). Exhibit "A" to Mr. Wood's declaration is an internal (i.e. non-published) paper prepared by Mr. Wood prior to the earliest filing date of the Sarno reference. Mr. Wood further declares that the inventors worked diligently on the invention from the time of conception to the date that the application was filed. Diligence was shown, in part, by the submission of the IBM invention disclosure that disclosed Applicants' invention. Exhibit "B" to Mr. Wood's declaration is a copy of the Disclosure that was submitted to the IBM Intellectual Property Law Department in Austin, Texas on April 9, 2001. Finally, Mr. Wood declares that additional materials are available evidencing the inventors' diligence in reducing the invention to practice and that these documents will be provided to the Examiner upon request. Mr. Wood's declaration under 37 C.F.R. § 1.131, therefore, removes the Sarno reference from consideration as prior art. Therefore, claims 1-6, 8-12, and 14-19 are allowable because Sarno is not prior art to such claims.

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2. Claim Rejections - Alleged Obviousness under 35 U.S.C. § 103

The Office Action rejects claims 7, 13, and 20 under 35 U.S.C. § 103(a) as being obvious, and therefore unpatentable, over Sarno in view of Bowman-Amuah. The rejections are respectfully traversed.

As an initial matter, each of these claims depends upon an allowable independent claim, as discussed in the preceding section. The Office Action does not allege that Bowman-Amuah teaches or suggests the limitations found in claims 1-6, 8-12, and 14-19. A reading of Bowman-Amuah shows that, indeed, Bowman-Amuah does not teach such claim limitations. Therefore, without Sarno, Bowman-Amuah simply cannot teach or suggest Applicants claimed invention.

Conclusion

As a result of the foregoing, it is asserted by Applicants that claims 1-20 in the Application are in condition for allowance, and Applicants respectfully request an early allowance of such claims.

Applicants respectfully request that the Examiner contact the Applicants' attorney listed below if the Examiner believes that such a discussion would be helpful in resolving any remaining questions or issues related to this Application.

Respectfully submitted,

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